

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**Criminal Bail Application No.271 of 2019**

Date	Order with signature of Judge
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For hearing of bail application.

**01.03.2019**

Mr. Muhammad Bashir Shakeel, Advocate for the applicant.  
Ms. Rahat Ahsan, Additional P.G.

**NAZAR AKBAR, J.** The applicant/accused is facing trial in Crime No.229/2018 under Section 489-F PPC registered at P.S. Sharifabad, Karachi. The applicant after failing to obtain bail from the Court of VI-Additional Sessions Judge, Central Karachi has preferred this bail application.

2. To be very precise, the facts of the case as spelt out from the FIR are that Complainant Humayun Guzdar entered into an agreement with the applicant/accused for purchase of a plot and paid Rs.11,50,000/- as advance and the balance amount was to be paid within six months. After four months the applicant/accused refused to sell the said plot and said that he will return double amount of advance already paid by the complainant to him and given a cheque bearing No.12083544 dated 28.08.2018 amounting to Rs.23,00,000/- drawn on Bank Islami, Gulshan-e-Maymar Branch, Karachi but on presentation in the account of the complainant in HBL Al-Azam Square Branch it was bounced, therefore, the complainant lodged FIR against the applicant/accused.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in the alleged offence. He further contended that the FIR was delayed about two month for which no plausible explanation has been given by the complainant. He argued that the offence under Section 489-F does not fall within the prohibitory clause of Section 497 Cr.P.C. He lastly prayed for grant of bail to the applicant.

4. Learned DPG has opposed the grant of bail to the applicant / accused.

5. On perusal of available record and consideration of arguments advanced by the parties, I have noted that:-

- i. The FIR was lodged with delay of about two months and no plausible explanation has been given by the complainant in the FIR;
- ii. The offence under Section 489-F is punishable only by three years and does not fall within the prohibitory clause of Section 497 Cr.P.C.
- iii. The applicant is behind the bars since last three months.

In the case of Khalil Ahmed Soomro and others vs. The State reported in **PLD 2017 Supreme Court 730** Hon'ble Supreme Court in para-4 of the judgment has observed as under:-

4. *On merits we have found that all offences of the above nature are punishable by way of imprisonment which do not fall within the prohibitory part of section 497, Cr.P.C and when the petitioners are entitled to post arrest bail thus, their prayer for pre-arrest bail, if declined, would be a matter of technicality alone while on the other hand they are likely to be humiliated and disgraced due to arrest at the hands of the local police.*

6. In view of the above facts and circumstances, the case for bail is made out, consequently the instant bail application is allowed. Applicant Abdul Hameed son of Abdul Qayyum is admitted to bail subject to furnishing solvent surety in the sum of **Rs.12,00,000/-** (Rupees Twelve Hundred Thousand) and P.R bond in the like amount to the satisfaction of the trial Court.

7. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant/accused on merits.

JUDGE